

**IN THE HIGH COURT OF HIMACHAL PRADESH,
SHIMLA**

Cr. Appeal No. 247 of 1993

Date of decision: 10.12.2007

State of H.P.

Appellant

-VS-

Sant Ram & others

Respondents

Coram

Hon'ble Mr. Justice Surjit Singh, J.

Hon'ble Mr. Justice Surinder Singh, J.

Whether approved for reporting¹? No

For the appellant: Mr. D.S. Nainta, Deputy Advocate General.

:

For respondents : Mr. J.R. Thakur, Advocate.

Surjit Singh, J. (oral)

This appeal by the State is directed against the judgment of Sessions Court whereby respondent Sant Ram, the father-in-law, Suresh Kumar, the husband, Roshni Devi, the mother-in-law and Sunita Devi, the sister-in-law of deceased Pushpa Devi, who had been charged with and tried for offences punishable under Section 304-B, 306 & 498-A read with Section 34 I.P.C. have been acquitted.

Marriage of deceased Pushpa Devi had taken place with respondent Suresh Kumar on 13.9.1987. On 4-9-1988, deceased and respondent Suresh Kumar visited the parental house of the deceased in connection with a fair in the village of the parents of the deceased. They returned to the matrimonial home around 4.00 P.M. The same evening around 6.30 P.M, deceased complained of stomach pain. She was rushed to near-by Civil Dispensary at village Kangoo. There the

¹ Whether reporters of the Local papers are allowed to see the judgment?

deceased told Dr. Rajinder Singh (PW8) that she had consumed aluminum phosphide. The Doctor enquired the cause of her having consumed the poison, but she kept quiet. Around 8.30 P.M. she died. Her parents were informed. They reached the Hospital at 1.00 A.M. on 5.9.1988. The father of the deceased made report to the Police, which was reduced into writing in the form of his statement, under Section 154 of the Code of Criminal Procedure. The same is Exhibit PD. Per this report the deceased used to be harassed by the four respondents, for her having not brought in dowry four items, namely, Television, Charoti (a big vessel for cooking), a godrej almirah and a drum for storing food grains. He further reported that the deceased also used to be taunted that she did not know the house hold chores and shirked work. It was also reported by him that when he reached the Hospital after getting the news that the deceased had been admitted to the Hospital with some serious ailment and found that his daughter was no more, he enquired from respondent Suresh Kumar as to what had happened and the latter told him that she had consumed aluminum phosphide.

Post mortem of the dead body was conducted by Dr. M.K. Pathak (PW1). He sent viscera to the Chemical Examiner. Chemical Examiner, per report Ext. PS, opined that there were contents of aluminum phosphide in the viscera. On the basis of the aforesaid report Dr. M.K. Pathak (PW1) gave the opinion that the cause of death was poisoning by consuming aluminum phosphide.

All the four respondents were sent up for trial. Trial Court charged them for the offence under Section 304-B, in the alternative under Section 306, I.P.C and Section 498-A I.P.C. and finally acquitted them, as aforesaid.

We have perused the record and heard the learned Deputy Advocate General. Prosecution examined the father, the mother, the brother and three other witnesses to prove the allegation that the deceased was harassed by the respondents for her having not brought dowry to their expectation and particularly the aforesaid four items. The father of the deceased Bhagwan Dass appeared as PW2. Her mother Parkasho Devi appeared as PW5. Her brother Vijay Kumar appeared as PW9. Other witnesses examined by the prosecution were Prabhu Ram (PW4), the man who arranged the alliance and acted as go-between, PW3 Sumitra Devi the neighbour of the parents of the deceased and Kala Devi (PW6) a neighbour of the respondents-accused. It is only the parents and the brother of the deceased who have testified that the deceased was harassed on account of her having not been given in dowry the aforesaid four items. No other witness corroborates them, not even Prabhu Ram (PW4) the go-between, who happens to be a cousin of the father of the deceased. Prabhu Ram (PW4) stated that once he accompanied Bhagwan Dass (PW2) to the matrimonial home of the deceased and there respondents Sant Ram, the father-in-law and Roshni Devi, the mother-in-law of the deceased complained that the deceased was not knowing the house hold chores. He did not corroborate the prosecution story about the demand for dowry. Even though he was cross-examined by the prosecution with the leave of the Court, we see no reason to disbelieve him, because he was not confronted with his alleged statement, under Section 161 of the Code of Criminal Procedure and thus, he is not contradicted by any previous statement.

The version given by the parents and brother of the deceased about the demand for the aforesaid items, on account of dowry, is shown to be not true by a number of letters which the

deceased wrote to her brother Vijay Kumar (PW9). The letters written by her to PW9 are Exhibits P4, P5 and P6. Even though in these letters she did mention that she was not happy at her in-laws' house and that they taunted her, there is no mention in any of these letters that there was any demand for dowry. In one of the letters, i.e. Exhibit P6, the deceased reminded PW9 Vijay Kumar about her being angry by nature and wrote that in a fit of anger, she could go to any extent even, cutting short her life. This letter is though not dated, the envelope Exhibit P7 in which it was sent bears the postal stamp dated 18.8.1988.

It has come in the evidence that the father-in-law and the mother-in-law of the deceased left the matrimonial home of the deceased for Delhi some time before 31-8-1988. The incident took place on 4.9.1988. Those days the husband of the deceased and her sister-in-law were with her in the matrimonial home. Her husband normally resided at Delhi, but those days he had come to the village, probably to give her company, as the parents-in-law of the deceased had gone to Delhi, where they had some transport business. It was in the absence of her parents-in-law that the deceased died of poisoning.

In the earliest version which was given to the Police by Bhagwan Dass (PW2), the father of the deceased, there is no mention that the deceased was harassed by her husband Suresh Kumar. Even though allegation of harassment was there against the sister-in-law, namely respondent Sunita Devi along with her parents, it was not alleged that she too harassed the deceased because of her having not brought sufficient dowry. In fact, there is no specific allegation against her either in the FIR Exhibit PA or in the testimony of Bhagwan Dass (PW2), Parkasho Devi (PW5) and Vijay Kumar (PW9) as to the cause

of harassment. Also there is no allegation against respondent Suresh Kumar in the testimony of these three witnesses. The allegations are only against the father-in-law and the mother-in-law of the deceased. They were not in the village where the incident took place at the time of the occurrence. As already stated, they had left for Delhi prior to 31.8.1988.

Other witnesses of alleged harassment, on account of dowry demand, were Kala Devi (PW6) who lives in the neighborhood of the parents of the deceased & Sunita (PW3), a neighbour of the respondents. They testified that the deceased had told her twice or thrice during her visit to her parental place that she was subjected to cruelty on account of demand for dowry, but in the cross-examination she stated that she was not told about any specific demand for which the deceased was allegedly subjected to cruelty. Sumita Devi (PW3), testified that the deceased had told her twice on different occasions that she was not feeling comfortable at her in-laws place but she did not explain as to what was the cause of dis-comfort. She stated that when she herself suggested to the deceased if it was on account of demand for dowry, she replied that she could think so. The witness was confronted with her statement, under Section 161 of the Code of Criminal Procedure Exhibit-DA, wherein there is no mention of any such thing and thus, she is contradicted by her previous statement.

Bhagwan Dass (PW2) the father of the deceased categorically admitted that no dowry had been demanded by the in-laws of the deceased at the time of the engagement or the marriage.

While in the witness box Bhagwan Dass (PW2) and Parkasho Devi (PW5) stated several other facts which are in the form of improvements over the prosecution version. For example, they

stated that once the deceased had been brought to their house by respondent Sant Ram, her father-in-law with the intention of leaving her at their place, but no such allegation was made in the earliest version Exhibit PD. Moreover while Bhagwan Dass stated that it was on 20.7.1988 that the deceased was brought by her father-in-law to his place, Roshni Devi (PW5) stated that she had been brought three-four months, after the marriage or say some time in the month of March or April, 1988. Similarly, Bhagwan Dass (PW2) stated that he visited the place of the respondents four days after the marriage and found that the household articles given in dowry by him were lying scattered in the verandah of the house of the respondents and on inquiry, the deceased told him that the respondents were not satisfied with the dowry given to her. This again is an improvement, because in Exhibit PD, statement under Section 154 of the Code of Criminal Procedure, which is quite lengthy, there is no mention of such a thing. Again while in the witness box, Bhagwan Dass (PW2) stated that Suresh Kumar respondent told him that he had given a tablet with a cup of Tea to the deceased and thereafter she died, but in Exhibit PD, he got recorded that respondent Suresh Kumar told him that the deceased had consumed aluminum phosphide. Also this part of the statement is belied by Dr. Rajinder Singh (PW8) who testified that the deceased on being brought to the Hospital told that she had consumed the tablets used for preserving wheat grains.

From an overall reading of the evidence, particularly the letter Exhibit P6, it appears that the deceased was not tampered and because of her temperament, she had been feeling suffocated over trivial interference by in-laws and that was the main cause of her ending her life. The fact that she took the extreme step of ending her life, when her father-in-law and mother-in-law, who allegedly used to

nag her, were also not there in the village, further strengthens our conviction.

In view of the above discussed position, we see no reason to interfere with the judgment of acquittal recorded by the trial Court.

Hence the appeal is dismissed.

(Surjit Singh)
Judge.

(Surinder Singh)
Judge.

December 10, 2007.
(bm)